

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

HENRY WATKINS,	:	
	:	NO. 02-CV-2881
Plaintiff,	:	
	:	
v.	:	
	:	
PENNSYLVANIA BOARD OF	:	
PROBATION & PAROLE,	:	
EDWARD JONES, and MICHAEL BUKATA	:	
	:	
Defendants.	:	
	:	

ORDER FOR A CONTINUANCE OF THE TRIAL DATE
AND COMPELLING DISCOVERY

ON THIS ____ day of _____, 2006, upon
consideration of Defendants' Motion for a Continuance of the
Trial Date and to Compel Discovery, and Plaintiff's response in
opposition thereto, it is hereby ORDERED that Defendants' motion
is GRANTED and:

- 1) The trial date of September 5, 2006 is continued until
_____, 2006, which date shall be a date certain for
trial;
- 2) Defendants shall depose the witnesses named by Plaintiff
within 45 days of the date of this Order.
- 3) All depositions shall be scheduled within ten (10) days of
the date of this Order, and every effort shall be made by
counsel for all parties to make themselves available for the
completion of these depositions.

J.

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

HENRY WATKINS,	:	
	:	NO. 02-CV-2881
Plaintiff,	:	
	:	
v.	:	
	:	
PENNSYLVANIA BOARD OF	:	
PROBATION & PAROLE,	:	
EDWARD JONES, and MICHAEL BUKATA	:	
	:	
Defendants.	:	
	:	

ORDER FOR A CONTINUANCE OF THE TRIAL DATE
AND COMPELLING DISCOVERY

ON THIS ____ day of _____, 2006, upon
consideration of Defendants' Motion for a Continuance of the
Trial Date and to Compel Discovery, and Plaintiff's response in
opposition thereto, it is hereby ORDERED that Defendants' motion
is GRANTED in Part and DENIED in part:

1) Plaintiff is precluded from calling at trial:

Robin Taylor
Bonietta Ferguson
Donna Henry
Dana Roth
William Hodge
Victoria Roadcloud
Rosalind Russ-Tobias
Joseph Scott
James Newton
Jack Wagner
Susan/Julia Dannenberg
Mark Weinstein
Howrhu Self
Darryl Rankin
Henry Williams

Ernest Holmes
Allen Castor
Chantolees Mirman
William Miller
Martha Holman
Calvin Ogletree, dec'd

and from offering into evidence any documents not produced
by Plaintiff to Defendants in this case;

- 2) The trial in the above matter shall commence on September 5,
2006.

J.

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

HENRY WATKINS,	:	
	:	NO. 02-CV-2881
Plaintiff,	:	
	:	
v.	:	
	:	
PENNSYLVANIA BOARD OF	:	
PROBATION & PAROLE,	:	
EDWARD JONES, and MICHAEL BUKATA	:	
	:	
Defendants.	:	
	:	

**DEFENDANTS' MOTION FOR CONTINUANCE
OF TRIAL DATE AND TO COMPEL DISCOVERY**

Defendants, the Pennsylvania Board of Probation and Parole (the "Board"), Willie E. Jones (improperly pled as Edward Jones) ("Mr. Jones"), and Michael Bukata ("Mr. Bukata") (collectively the "Defendants") by their attorneys, respectfully submit this Motion for a Continuance of the Trial Date and to Compel Discovery.

1. Beginning in August 2005, Defendants' counsel began concerted efforts to obtain outstanding discovery responses from the plaintiff, Henry Watkins ("Mr. Watkins").

2. Following many communications, on October 6, 2005, Mr. Sugarman, counsel for the plaintiff, sent, via facsimile, what purported to be Plaintiff's Answer to Defendants' Third Set of Interrogatories and Supplemental Disclosures. In this correspondence, Mr. Watkins named additional witnesses, but still

failed to provide information required pursuant to Fed.R.Civ.P.

26. See Exhibit A.

3. By this point, Mr. Watkins had disclosed 35 individuals as having knowledge or as his trial witnesses. Before seeking the Court's permission to depose more than 10 individuals, Defendants tried to obtain more detail about the subject matter of these individuals' knowledge. As set forth below, Defendants' efforts were stymied.

4. On October 7, 2005, Defendants' counsel wrote to Mr. Sugarman to again advise him of the fact that Plaintiff had failed to respond to the discovery requests outlined in a prior communication. Counsel again pointed out the deficiencies and advised Mr. Sugarman that absent a response on or before October 21, 2005, a motion to compel discovery would be filed with the court. See Exhibit B.

5. On October 28, 2005, Defendants filed a motion to compel the above discovery. See Exhibit C.

6. Due to Mr. Sugarman's illness, Defendants asked the Court to hold their motion in abeyance. The Court entered an Order dated November 10, 2005 providing for that relief. See Exhibit D.

7. Upon Mr. Sugarman's return to work, through a series of communications, Defendants attempted to learn the identity, addresses and "subjects of information" of each witness named by

Mr. Watkins. While Defendants were initially advised that the "subjects of information" for the witnesses were outlined in the Russ-Tobias pretrial submissions, very few witnesses applicable to this case were listed in the Russ-Tobias pretrial submissions. Defendants continued to make efforts to obtain the information. As an example of the efforts made, see Exhibit E, which outlines, among other things, Defendants' efforts to review the Russ-Tobias file. As set forth in Exhibit E, when counsel appeared for inspection, the file contained privileged materials, thwarting counsel's efforts to review the documents.

8. On May 30, 2006, the Court entered an Order denying Defendants' Motion to Compel without prejudice, and specifically stating that **"Defendants may file a Motion to Compel if Discovery Disputes Remain Unresolved."** See Exhibit D (emphasis added).

9. On June 21, 2006, Defendants' counsel again wrote to Mr. Sugarman to request responses to outstanding discovery requests. See Exhibit F.

10. On June 23, 2006, Mr. Sugarman requested more time to respond to the June 21, 2006 correspondence, and Defendants' counsel responded in a letter dated June 26, 2006 that if responses were not received on or before July 7, 2006, the Court's intervention would be sought. See Exhibit G.

11. On July 11, 2006, Defendants' counsel wrote to the Court to request a discovery conference to resolve the outstanding issues. The request for a conference was later withdrawn, however, based on Plaintiff's counsel's alleged willingness to resolve the issue. See Exhibit H.

12. On July 20, 2006, Lisa Marone, Esquire, counsel for Defendants, met with Mr. Sugarman in an attempt to resolve the outstanding discovery issues. As a result of that meeting, a misunderstanding occurred, which was memorialized in several writings to the Court. See Exhibit I.

13. On August 3, 2006, Ms. Marone wrote to Mr. Sugarman seeking permission to inspect the Russ-Tobias file, and requested that Mr. Watkins identify which transcripts he intended to rely upon in relation to his witness Calvin Ogletree, deceased. No response has been received to this letter. See Exhibit J.

14. At this juncture, trial is scheduled for September 5, 2006.

15. Plaintiff contends that discovery is over.

16. Defendants contend that discovery is not over, and that further discovery, depositions and a document inspection, is required because of Plaintiff's failure to comply with court rules. If Defendants are precluded from this discovery, then they respectfully request that the witnesses and documents be precluded at trial. In this case, Plaintiff should be precluded

from calling the following witnesses because of his failure to comply with Rule 26 and the discovery Rules:

Robin Taylor
Bonietta Ferguson
Donna Henry
Dana Roth
William Hodge
Victoria Roadcloud
Rosalind Russ-Tobias
Joseph Scott
James Newton
Jack Wagner
Susan/Julia Dannenberg
Mark Weinstein
Howrhu Self
Darryl Rankin
Henry Williams
Ernest Holmes
Allen Castor
Chantolees Mirman
William Miller
Martha Holman
Calvin Ogletree, dec'd

Further, Plaintiff should be precluded from offering into evidence any documents he did not produce to Defendants in this case including the so-called Russ-Tobias documents.

17. Defendants respectfully request that the trial date of September 5, 2006 be continued for sixty (60) days to allow for the completion of depositions and the document inspection.

18. Defendants respectfully request that a new trial date be set as a "date certain" as Defendant Michael Bukata must travel from his current residence, which is several hundred miles away.

WHEREFORE, for the foregoing reasons Defendants respectfully request that this Court grant their Motion for a Continuance of the Trial Date and to Compel Discovery.

Respectfully submitted,

MILLER, ALFANO & RASPANTI, P.C.

By: s/Lisa R Marone

GINO J. BENEDETTI, ESQUIRE
LISA R. MARONE, ESQUIRE
Attorney I.D. Nos. 59584, 200305
1818 Market Street, Suite 3402
Philadelphia, PA 19103
(215) 972-6400

Attorneys for Defendants,
Pennsylvania Board of Probation
and Parole, Willie E. Jones,
and Michael Bukata

Dated: August 18, 2006

CERTIFICATE OF SERVICE

I, Lisa R. Marone, hereby certify that a true and correct copy of Defendants' Motion for a Continuance of the Trial Date and to Compel Responses to Discovery was served upon the following person and in the manner listed below:

VIA HAND DELIVERY

Robert J. Sugarman, Esquire
Sugarman & Associates
11th Floor, Robert Morris Building
100 North 17th Street
Philadelphia, PA 19103

BY: s/Lisa R. Marone
LISA R. MARONE

Dated: August 18, 2006